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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,976	07/12/2001	Arthur Ernest Conrad	01424-P0037B	9444

24126 7590 04/05/2007

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ART UNIT	PAPER NUMBER
3622	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	04/05/2007	PAPER

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/903,976
Filing Date: July 12, 2001
Appellant(s): CONRAD ET AL.

Wesley W. Whitmyer, Jr.
Reg. No. 33,558
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 14, 2006 appealing from the Office action mailed July 12, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,295,061	PARK et al.	9-2001

Barboza, David. *An Internet newcomer is making money by selling moving ads as part of screen savers.* October 1, 1996. The New York Times. Page D.7.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless - (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-6, 8-16, 18-28, 30-38, and 40-44 are rejected under 102(e) as being anticipated by Park et al (6,295,061 hereinafter Park).

In reference to claims 1, 11, 21, 22, 23, 33, 43, and 44 Park discloses a method and system for displaying and implementing an attract loop for displaying web content on a user computer comprising: providing a central computer (i.e. the server computer) (col. 5 lines 26-38, col. 6 lines 26-33, and Figures 5 and 6); providing a user computer in communication with said central computer through a communications link (col. 5 lines 26-38, col. 6 lines 51-53, col. 7 lines 49-63, and Figures 5 and 6), the user computer having a browser executing thereon and having a display (col. 5 lines 49-58, col. 8 lines

20-24, col. 10 lines 61 to col. 11 line 1, and Figures 6 and 7) receiving, from the browser executing on the user computer, a request to transmit a web page (col. 5 line 49-58 and col. 10 lines 61 to col. 11 line 1); transmitting a web page to the browser executing on the user computer in response to the request to transmit a web page, the web page comprising attract loop code, wherein the attract loop code monitors said user computer for a user event (col. 7 lines 49-63, col. 8 lines 20-24, col. 10 lines 47 to col. 11 lines 65, and Figures 8-15), and *only* if the user event does not occur within a specified time period (i.e. just on the basis of a lapse of time), the attract loop code causes the browser executing on the user computer to transmit a request for attract loop content to the central computer (col. 3 lines 28-30 and 44-50, *col. 9 lines 62 to col. 10 lines 6, where it is stated, "Moreover, the pointing device activity further includes a combination of standard events such as* ***a lapse of time regardless of any user's point device activity****" (i.e. when the user event does or does not occur within a specified time period the images disappear and reappear similar to a screensaver), and claims 7 and 48*), transmitting attract loop content to the browser executing on the user computer in response to the request for attract loop content (col. 4 lines 13-17, col. 10 lines 27-46, col. 11 lines 32-65, and Figures 10-15) and wherein the attract loop code causes the attract loop content to be displayed on the display of the user computer through the browser (col. 8 lines 20-49, col. 10 lines 23-25, and Figures 10-15).

2. In reference to claims 2, 12, 24, and 34, Park discloses the method and system wherein the attract loop code, while the attract loop content is being displayed on the display of the user computer, monitors the user computer for a user event, and, upon

the occurrence of the user event, automatically causes the display of the attract loop content to be terminated (i.e. disappearance) (abstract, col. 3 lines 22-27 and 31-34, col. 4 lines 13-17, col. 10 lines 7-12, and Figures 10 and 13).

3. In reference to claims 3, 13, 25, and 35, Park discloses the method wherein the central computer comprises a web server (i.e. a server that serves web sites to the client computer) (col. 5 lines 26-58, col. 6 lines 25-27, col. 8 lines 20-24, and Figures 5 and 6).

4. In reference to claims 4, 14, 26, and 36, Park discloses the method wherein the attract loop content is displayed in a browser window (col. 5 lines 49-58, col. 7 lines 12-13 and 49-57, col. 8 lines 20-24, col. 9 lines 18-19 and 35-37, col. 10 lines 24-26, col. 11 lines 29-31, and Figures 6-15).

5. In reference to claims 5, 15, 27, and 37, Park inherently discloses the method attract loop content is displayed in a browser window in full screen mode (since, the option to display a browser window in full screen mode is automatically presented as a feature of the browser itself, for example in Internet Explorer, under the View menu on the toolbar, there is an option to display a full screen mode, and Park teaches the invention using the Internet Explorer web browser, and therefore the full screen mode option is positively present in Park's disclosed invention) (col. 5 lines 49-58, col. 7 lines 12-13 and 49-57, col. 8 lines 20-24, col. 9 lines 18-19 and 35-37, col. 10 lines 24-26, col. 11 lines 29-31, and Figures 6-15).

6. In reference to claims 6, 16, 28, and 38, Park discloses the method wherein the wherein the attract loop content is displayed in a browser window which was

automatically opened by the attract loop code (col. 3 lines 22-50, col. 4 lines 13-17, col. 11 lines 46-65, and Figures 3 and 10-15).

7. In reference to claims 8, 18, 30, and 40, Park discloses the method wherein the user event is selected from the group consisting of manipulation of an input device, movement of a mouse (i.e. cursor movement) (abstract, col. 3 lines 12-17 and 55-67, col. 4 lines 13-17, col. 9 lines 56 to col. 10 lines 6, col. 11 lines 46 to col. 12 lines 16, and Figures 10-13), typing on a keyboard, access of a storage device, and combinations of these.

8. In reference to claims 9, 19, 31, and 41, Park discloses the method wherein the attract loop content comprises media selected from the group consisting of text (col. 7 lines 65 to col. 8 lines 2), graphics (col. 7 lines 65 to col. 8 lines 2), animation, sound, video, multimedia, and combinations of these.

9. In reference to claims 10, 20, 32, and 42, Park discloses the method wherein the attract loop content relates to subject matter selected from the group consisting of advertisement (col. 7 lines 65 to col. 8 lines 4), entertainment, education, and combinations of these.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 7, 17, 29, and 39 are rejected under U.S.C. 103(a) as being unpatentable over Park in view of the article titled "An Internet newcomer is making money by selling moving ads as part of screen savers" written by David Barboza for the New York Times on October 1, 1996 on page D.7 (hereinafter Barboza).

In reference to claims 7, 17, 29, and 39 Park teaches the method wherein the attract loop code is received and displayed (col. 7 lines 43-57, col. 8 lines 20-24 and 38-40, and col. 11 lines 29-31). Park is silent about teaching the method that automatically causes the attract loop content to be continually updated.

Barboza teaches the method that automatically causes the attract loop content to be continually updated (page 1 lines 1-4 and 7-9, page 2 lines 15-17, 26-28, and 31-33). It would have been obvious to modify Park to include the method that automatically causes the attract loop content to be continually updated to gain access to up to date advertising content to be presented with the web page to the users. Further, it would make sense to have continually updated content, since users would not want to see the same advertisements over and over again, and repeated advertisements will also not benefit the advertiser as the viewers will no longer be interested in viewing the repeated advertisement.

(10) Response to Argument

11. In reference to claims 1-44, Applicant argues on pages 10-12 of the appeal brief that the attract loop code monitors the user computer for a user event, and then requests and/or displays attract loop content only if the monitored user event does not within a specified time period and that Park doesn't teach this limitation. The Applicant

further states that the cited feature in Park is merely a timer, which displays advertising images to a user when a specified time has elapsed and that Park does not teach displaying the advertising images only if the monitored user event does not occur within a specified time period.

The Examiner respectfully disagrees, and would like to point the Applicant to col. 3 lines 28-30 and 44-47 and col. 9 lines 62 to col. 10 lines 6 in Park according to which, a pointing device (i.e. a mouse) activity can be a lapse of time regardless of any user's pointing device activity or a pointing device activity can be a click, drag, movement of the mouse etc. and the information presented on the computer screen can therefore disappear or reappear after a predetermined time based on one of these activities. Since a lapse of time without any user pointing device movement is a form of activity per Park, this reference teaches the showing of a screen with advertisements when the user does not do anything with the mouse after for example 5 minutes have gone by.

Park is not just a timer, since Park doesn't say it's just a timer and because Park says that the non-movement of the mouse for a certain amount of time is a type of activity that is recognized in Park and in respond to which a screen with advertisements is shown. Therefore, Applicant's argument is not persuasive.

12. Applicant also argues that his invention is a screen saver and Parks is an advertising platform. The Examiner disagrees and would like to point the Applicant to col. 3 where it is disclosed that the object of Parks's invention is to provide images and sound that are part of a dynamic and interactive displaying system that changes to give a multiple advertising effect. Screen savers also simply display images that are

presented, including advertisement screensavers that might feature a store logo who might have paid to develop the screen saver. Just because Parks's teaches showing images that are advertisements doesn't mean it's not a screen saver.

13. The Applicant further argues that the word "only" in front of if should be given weight. With regards to this, as explained earlier, Parks teaches both the presentation of a screen with advertisements when the user moves the mouse and when the user doesn't move the mouse for an amount of time, and therefore teaches the limitation to show the advertising screen when there is no activity. Furthermore, the Examiner has not been able to find in the Applicant's specification any discussion regarding limiting the invention exclusively when the user does not move the mouse. Since the Applicant did not exclude activities such as moving the mouse in his specification, Parks also teaches those things in addition to teaching that the advertisements are presented when there is no mouse movement.

14. Applicant also argues that Pars invention's main objective is to react to the user's movement of the mouse, and reacting to non-movement of the mouse is doing exactly opposite of what is taught by Parks.

As stated before, Parks teaches both in terms of reacting to the movement of the mouse and reacting to the non-movement of the mouse after some time goes by. Therefore, reacting to non-movement of the mouse is not exactly the opposite of what is taught by Parks, since this feature itself is directly taught by Parks. Park does not have to teach just one embodiment of when an event does not occur, but can teach more than one embodiment of when an event does and when an event does not occur, since

this is broader and the applicant is simply trying to claim a narrow component of Park's broad teaching. This is especially true, since the Applicant's specification does not exclude other activities such as moving of the mouse and doesn't use only if in the specification.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

NB

Conferees:

Eric Stamber

Raquel Alvarez

RAQUEL ALVAREZ
PRIMARY EXAMINER